THE HON'BLE SRI JUSTICE P.S. NARAYANA

Writ Petition No.24830 of 2005

Date:5th June, 2006

Between:-

Varanasi Jagadeeswara Prasad,

S/o. Aadiseshaiah .. Petitioner

And

Jaggaiahpet Municipality rep. By

Its Commissioner, Jaggaiahpet,

Krishna District .. Respondent

THE HON'BLE SRI JUSTICE P.S. NARAYANA

Writ Petition No.24830 of 2005

ORDER:-

1. Heard the Counsel.

2. W.V.M.P.No.13/2006 is filed by Jaggaiahpet Municipality, represented by its Commissioner, Jaggaiahpet, Krishna District – respondent in Writ Petition No.24830/2005 to vacate the interim orders in W.P.M.P.No.31914/2005 dated 22-11-2005.

3. Both the Counsel made elaborate submissions and hence the main Writ Petition itself is being disposed of at this stage.

4. Sri Satyam Reddy, the learned Counsel representing the writ petitioner would maintain that the rejection of the application praying for the co-option member cannot be sustained since the petitioner satisfies the qualifications specified in Rule 3(e) of the Andhra Pradesh Municipal Councils/Nagar Panchayats (Co-option of Members having Special Knowledge or Experience in Municipal Administration) Rules, 1995.

5. Sri Nageswar Reddy, the learned Standing Counsel representing the Municipality in question however would submit that no acceptable material as such had been placed to satisfy that the petitioner is having the requisite qualifications specified in the aforesaid Rule and hence the relief cannot be granted.

6. Heard both the Counsel.

7. The petitioner filed the present Writ Petition praying for issuance of Writ of Mandamus declaring the action of the respondent – Jaggaiahpet Municipality in rejecting the petitioner's application for election as a Co-option Member under O.C. category of Jaggaiahpet Municipality pursuant to the Notification No.1460/2005 c1-31, dated 31-10-2005 as arbitrary and illegal and consequently direct the respondent to accept petitioner's application and consider the same

and pass such other suitable orders.

8. It is stated by the writ petitioner that he is a holder of Diploma in Civil Engineering and worked for more than 30 years in Irrigation Department and retired as Assistant Engineer and he has worked in various projects including Nagarjunasagar and Pulichintala and he is having special knowledge in laying of roads, construction of buildings, water supply, sanitation and maintenance of Townships of the projects. It is also stated that the respondent – Municipality had invited application for Co-option as a Member of Municipal Council vide notification No.1460/2005 c1-31, dated 31-10-2005. The eligibility conditions as per the above notification had been specified as hereunder:-

i. *Held the office of Chairperson/Sarpanch/Member of Municipal Council/Grampanchayat or a combination of these offices for total period of not less than five years;*

ii. *Advocate who has served as Municipal Standing Council for a term of 3 years;*

iii. *Worked and retires in the Municipality/Municipal Corporation/Municipal Administration Department; and*

iv. *Having special knowledge in Roads and Buildings/Water Works/Town Planning/Public Health.*

9. Rule 3 of the Andhra Pradesh Municipal Councils/Nagar Panchayats (Co-option of Members having Special Knowledge or Experience in Municipal Administration) Rules, 1995 (here-in-after, in short, referred to as 'Rules') deals with ***Persons eligible for co-option – Qualification.*** Rule 3 (e) of the aforesaid Rules specifies *no person shall be eligible to be Co-opted as a member to the Municipal Council, unless he is a person having special knowledge in Roads and Buildings/Water Works/Town Planning/Public Health.*

10. In the counter affidavit specific stand had been taken that the writ petitioner is not concerned with the Roads and Buildings but concerned with Irrigation and also further stand had been taken that no acceptable material had been placed to satisfy that the petitioner

would fall within Rule 3(e) of the aforesaid Rules.

11. In the light of the material placed before this Court and also the averments made in the affidavit filed in support of the Writ Petition, this Court is satisfied that the writ petitioner satisfies the conditions specified in Rule 3 (e) of the Rules aforesaid. In view of the same, the writ petitioner is bound to succeed and accordingly the Writ Petition is hereby allowed. No order as to costs.

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Justice P.S.Narayana

Date: 5th June, 2006

SMR